

To: CHENG, CHRISTINA[Cheng.Christina@epa.gov]
Cc: Herrera, Angeles[Herrera.Angeles@epa.gov]; Maldonado, Lewis[Maldonado.Lewis@epa.gov]; Minor, Dustin[Minor.Dustin@epa.gov]; Ball, Harold[Ball.Harold@epa.gov]
From: Manzanilla, Enrique
Sent: Wed 12/6/2017 4:32:52 PM
Subject: FW: Anaconda Deferral Agreement

Can you set up a conference line for 10 AM please and get a room. Please circulate to those on cc list and to Cyndy Mackey.

From: Mackey, Cyndy
Sent: Wednesday, December 6, 2017 8:31 AM
To: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Cc: Herrera, Angeles <Herrera.Angeles@epa.gov>; Maldonado, Lewis <Maldonado.Lewis@epa.gov>; Minor, Dustin <Minor.Dustin@epa.gov>; Ball, Harold <Ball.Harold@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: RE: Anaconda Deferral Agreement

1:00 EST works for me. You can call me at the below cell. However, it would be easier to have a conference call line set up.

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

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From: Manzanilla, Enrique
Sent: Wednesday, December 06, 2017 11:26 AM
To: Mackey, Cyndy <Mackey.Cyndy@epa.gov>
Cc: Herrera, Angeles <Herrera.Angeles@epa.gov>; Maldonado, Lewis <Maldonado.Lewis@epa.gov>; Minor, Dustin <Minor.Dustin@epa.gov>; Ball, Harold <Ball.Harold@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: RE: Anaconda Deferral Agreement

Thanks Cyndy. I just heard back from Kell and he's available to get on a call with me anytime. Are you available at 1 PM EST? I can just patch you in using your cell or you can connect with him and call me. Let me know.

Enrique

From: Mackey, Cyndy
Sent: Wednesday, December 6, 2017 7:51 AM
To: Kelly, Albert <kelly.albert@epa.gov>
Cc: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Woolford, James <Woolford.James@epa.gov>
Subject: Anaconda Deferral Agreement

Kell

I understand that significant progress is being made on the Anaconda deferral agreement and want to be sure that you are aware of OSRE's concerns regarding a few important issues that need to be preserved in this agreement to preserve CERCLA protectiveness/standards under the ARC deferral agreement. To do this, we recommend that EPA not accept the following changes to the Anaconda deferral

agreement:

1. We cannot say (page 1) that the NV-ARC AOC is consistent with the deferral guidance, because it is not.
2. TI waiver: must use the CERCLA TI waiver process, not Nevada's more lenient process.
3. Language regarding "significant and valid concerns"... keep it and keep it broad. Don't narrow what significant and valid mean by further defining it.
4. Delete the following last paragraph/sentence since a MOU is not the appropriate vehicle for this type of promise:

Notwithstanding these reservations, unless and until this Deferral Agreement is terminated in accordance with Section VI.A or VI.B, EPA shall not take any administrative or civil action under Section 106 of CERCLA, 42 U.S.C. 9206(a), ordering or requiring performance of any response action at the Site that is in addition to or inconsistent with those being implemented by NDEP under this Deferral Agreement.

Let me know if further information is needed from OSRE on this matter. I am still at the Brownfield Conference but can be available for a conference call with advance notice. Thanks.

Cyndy Mackey

Director, Office of Site Remediation Enforcement

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